

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of the Local Competition)
Provisions in the Telecommunications Act)
of 1996)

CC Docket No. 96-98

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**MOTION FOR EXTENSION OF TIME
OF COX COMMUNICATIONS, INC.**

Cox Communications, Inc. ("Cox"), by its attorneys, hereby submits this request for a one-week extension of time to file supplemental comments on the "FCC Staff Working Copy of an Industry Demand & Supply Simulation Model" (the "Model"). For the reasons stated below, it is crucial that the Commission grant this extension of time request in order to ensure that all interested parties have at least some meaningful opportunity to comment on the Model.^{1/}

The Commission issued a Public Notice on June 20, 1996, providing that comments on the proposed Model are to be filed no later than July 1, 1996.^{2/} The proposed Model provides a framework for analyzing competitively significant data, such as "growth rates, pricing trends, demand elasticities and cost relationships," critical to the instant docket and implementation of Congress's goals for interconnection in passing the Telecommunications Act of 1996 (the "1996 Act"). *See id.* Given the vital role that the proposed Model will

^{1/} Because this is a motion, it does not count toward the 10-page *ex parte* limit in this docket.

^{2/} *See Supplemental Comment Period Designated for Local Competition Proceeding*, CC Docket No. 96-98, Public Notice, DA 96-1007, IAD 96-175 (released on June 20, 1996) ("Public Notice").

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play in framing debate in this docket and the uneven availability of the material to industry participants, the 11-day comment period allotted by the Commission is far too little time to decipher and then analyze the framework of the Model, create a reasonable base case for the hundreds of variables involved, run different scenarios and formulate a meaningful response.

Furthermore, although the Public Notice asserts that the proposed Model allows a user to simulate the relative impact of particular changes in the telecommunications industry based on "publicly-available, industry-wide information," this information is neither "publicly-available" nor "industry-wide." Neither the Public Notice nor the Model itself gives any instruction whatsoever on how to use the Model or the critical underlying assumptions behind each of the hundreds of model inputs.^{3/}

In addition, the competitively discriminatory manner in which the Commission has released the Model confounds all notions of "public availability." The telephone companies have had access to the developers of the proposed Model prior to its public release and have had the opportunity to ask questions to evaluate the variables in the Model and thereby reach a full understanding of — and perhaps even influence — its underlying assumptions.^{4/} Unlike the telephone companies, would-be competitors such as Cox have not had the benefit of access to the proposed Model prior to its "publication" in order to reach an informed

^{3/} Initial review of the Model demonstrates that it does not, as one might expect, assess the benefits of new wireline and wireless competition but instead ignores these benefits to focus solely on financial "harm" competition may cause LECs. Cox respectfully submits that this exercise is entirely irrelevant to the Commission's duty to implement the 1996 Act.

^{4/} Interested incumbent LECs met with Bureau staff responsible for developing the model over the last several weeks and were briefed on the Model. We can find no evidence that *any ex partes* were filed memorializing these contacts.

understanding of the underlying assumptions upon which the blank variables in the proposed Model are based.^{5/} Furthermore, local telephone companies have an inherent advantage in manipulating the data, by virtue of their continuing reporting requirements, their routine familiarity with the assumptions underlying ARMIS, and their existing utilization of the uniform systems of accounts and universal service fund data upon which the proposed Model appears to be based. In contrast, non-telephone company competitors such as Cox cannot reasonably be expected to have the same or similar level of familiarity with the basic economic assumptions underlying these types of data in order to analyze or identify deficiencies in the proposed Model in such a brief period of time.

Eleven days is insufficient time to consider and evaluate in a useful manner the original purposes, let alone alternative approaches to, the many types of data proposed in the Model. The proposed Model occupies several levels of a Lotus 1-2-3 spreadsheet file, including:

specifications, snapshot results, detailed results (consumer/producer welfare analysis), calculation of interstate access charge, revenue and expense buildups, input productivity, residential demand simulation, business demand simulation and macros including the Spavins-Lande productivity factor.

See Model at Levels A-G. Yet the proposed Model does not give commenters any hint as to the Commission's intent in seeking such information or to what purposes such data will be put in the Commission's competitive analysis. In contrast, when the Commission sought

^{5/} Even if there were sufficient *time* to evaluate the Model under the circumstances dictated by the Commission, the 50-page limit on comments, inclusive of attachments, is totally unreasonable, given that a hard-copy printout of the Model itself far exceeds 50 pages. Consequently, the Commission should not count attachments to comments toward the total page limit.

comment on a similar analytical tool called the "Telecommunications Access Provider Survey" (the "Survey") — also developed by the Commission's Industry Analysis Division — the accompanying Public Notice provided background information and explanation of the Commission's purposes and goals in seeking particular types of data, even though the Survey was tremendously less data-intensive overall than the Model.^{6/} Although the Survey was far less complex than the Model, moreover, the Commission nonetheless gave interested parties over a month to file comments on the Survey. *See id.*

Furthermore, access to copies of the proposed Model for comment has been limited at best, notwithstanding that the already-short 11-day comment period continues to run. The Model is available only as a Lotus 1-2-3 spreadsheet on computer diskette and not in hard copy format. Thus, the Commission assumes that all interested parties not only will have access to, but also possess a working knowledge of, such software in order to "use the model [or] create variations of the model." *See Public Notice.* Parties are left to guess what computer commands to use simply to print out all the relevant information. As specified in the attached affidavit, moreover, the Commission's Records Image Processing System ("RIPS"), which is the source of all Commission docketed public files, does not have a copy of the proposed Model available on it. Nor is there a hard copy of the Model available in the Commission's public reference room.^{7/} Therefore, it is entirely unfair to expect

^{6/} *See Common Carrier Bureau Seeks Comment on the Telecommunications Access Provider Survey*, Public Notice DA 95-2287 (released November 3, 1995).

^{7/} The reference room staff-person produced a copy of the Model on diskette, but instructed our legal assistant that there was no way to view the diskette on the RIPS system, and directed him to International Transcription Services, Inc. ("ITS"), who also has the Model available for purchase only on computer diskette.


commenters to respond to a data-intensive economic model made available exclusively on computer diskette in a particular software package, and not even placed in the Commission's public files, within a mere 11 days.

Accordingly, pursuant to Section 1.46 of the Commission's rules, 47 C.F.R. § 1.46, Cox requests a one-week extension of time to file comments on the Model up to and including July 8, 1996. A one-week extension of time is essential and strikes a reasonable balance between (1) affording interested parties an opportunity to review the framework of the model, select and determine reasonable base case assumptions from the plethora of different databases which staff at the Commission say they used and run other scenarios in order to respond at all meaningfully to the important issues raised by the proposed Model, and (2) meeting the statutory deadline for completion of this rulemaking imposed upon the Commission by the 1996 Act. Failure to grant this extension request will mean that only the incumbent LECs will have had a reasonable opportunity to review the Model and provide

input to the Commission. Moreover, the Commission must clarify that attachments to the comments do not count toward the total page limit.

Respectfully submitted,

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